

Annex 11: Call Recording Service

----- Section One – Terms and Conditions -----

1. General

1.1. The terms and conditions set out in this Annex relate to our call recording service (“Call Recording Service”) and are in addition to the standard terms set out above. Any conflict between the Main Body Terms, the Annexes and/or any other document expressly referred to in the Terms will be determined in accordance with clause 19.8.

1.2. The Call Recording Service means the service we provide to you so that you may record inbound and outbound phone calls made and received using your Gradwell VoIP service with the recordings being made to AWS (as defined below).

1.3. We may from time to time amend the Terms, Charges or Services in accordance with clause 14. Whenever we make such changes, we will update the Website to reflect this and notify you in writing to your nominated email address that forms part of your Master Contact Details.

1.4. Full details of the features and functionality of the Call Recording Service can be found at the following URL: <https://www.gradwell.com/calls/voip-add-ons/call-recording/>

1.5. All definitions used in the main body of the standard terms apply to this Annex.

1.6. Any reference to a “clause” is to a clause of the Main Body Terms. Any reference to a “paragraph” is to a paragraph of this Annex.

1.7. Other definitions that appear only in this Annex have the meanings set out below:

- “AWS” means S3 Amazon Web Services, the online storage service operated by Amazon Inc. as specified at: <https://aws.amazon.com/s3/>;
- “AWS Customer Agreement” means the contract terms specified by Amazon in connection with use of AWS which may change from time to time, the current version of which is set out at: <https://aws.amazon.com/agreement/>;
- “Call Recording Service” has the meaning given to it in paragraph 1.1;
- “Content” means all Data associated with calls recorded using the Call Recording Service;
- “Gradwell Personal Data” means “personal data” processed in the course of our business and for which we are the “data controller” for the purposes of the Data Protection Act 1998.

2. Use of the Services

2.1. To use the Call Recording Service, you must:

2.1.1. Purchase from us and keep active a VoIP Service;

2.1.2. Purchase AWS from Amazon, maintain an AWS account and comply with the AWS Customer Agreement; and

2.1.3. Provide the details, permissions and access necessary to grant us write-access to your AWS account so that we can configure our VoIP system to record the content of calls. You agree to provide us with all reasonable assistance (at no cost) that we may require in this regard.

2.2. Once activated, the Call Recording Service will operate on all inbound and outbound calls made using your Gradwell VoIP service, unless and until you request us to stop the Call Recording Service by

contacting the Support Team or you deactivate it using the Control Panel. Any request to stop (or deactivation of) the Call Recording Service will not affect your liability in respect of the Minimum Contract Period.

2.3. You acknowledge and agree that at all times:

2.3.1. You will comply with all relevant Law. The recording of calls using the Call Recording Service engages a number of legislative instruments and areas of law. This may include, without limitation, the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, and the common law concerning confidence and privacy. Without affecting the provisions of clause 8 of the Main Body Terms, you are solely responsible for complying with all relevant Law and you acknowledge and agree that failing to do so may result in legal liability to you. You are strongly advised to seek independent legal advice concerning your recording of calls using the Call Recording Service;

2.3.2. You will remain solely responsible for:

2.3.2.1. your AWS account, any Content stored on it (and the location of that Content in accordance with the AWS Customer Agreement) and the account's security;

2.3.2.2. on a call-by-call basis, notifying the other party on the call that it is being recorded and (where appropriate) seeking consent in accordance with relevant Law; and

2.3.2.3. the Content generated by means of the Call Recording Service which is stored on AWS. We will have no liability to you for any loss or corruption of Content stored on your AWS account.

2.4. We will only access your AWS account for the purposes of providing the Call Recording Service.

2.5. It is your responsibility at all times to ensure that the AWS Customer Agreement allows for us to provide the Call Recording Services using AWS. If you become aware of the AWS Customer Agreement changing in a way that might reasonably impact our delivery of the Call Recording Service, you must notify us immediately.

2.6. If the AWS Customer Agreement changes such that we can no longer provide the Call Recording Service using AWS, the Contract for the Service will come to end and any loss will lie where it falls.

3. Data Protection Act compliance

3.1. You acknowledge and agree that, for the purposes of the Data Protection Act 1998:

3.1.1. The recorded calls constitute "personal data" and may, depending on the content of the call, constitute "sensitive personal data";

3.1.2. You are the "data controller" and, in respect of enabling the recording of calls using the Call Recording Service, we are the "data processor";

3.1.3. You are solely responsible for determining appropriate data retention periods for the Content stored on AWS, and acting accordingly to effect deletion, for the purposes of relevant Law.

3.1.4. As data controller for the Content, you permit us to carry out data processing by means of operating the Call Recording Service in accordance with the Terms. Once the Content has been written to your AWS account (which we will carry out using reasonable skill and care in accordance with clause

6.1 of the Main Body Terms), our duties as data processor will cease. This is the only processing of the Content that we will carry out in connection with the Call Recording Service.

3.1.5. In relation to our duties as data processor:

3.1.5.1. We agree to use our reasonable endeavours to comply with any reasonable and lawful instruction which you, as the data controller, give to us in connection with the Content (and we will not act on instructions from any third party in respect of the processing, except where it is necessary to comply with a relevant regulatory authority or is otherwise required under relevant law);

3.1.5.2. We will carry out the relevant processing of the Content with the same degree of skill and care as we exercise in respect of the processing of Gradwell Personal Data and, in any event, in accordance with obligations equivalent to those imposed on a data controller by the seventh principle of the Data Protection Act 1998.

4. Indemnity

4.1. In addition to the indemnity set out in clause 12 of the Main Body Terms, you agree to fully indemnify us and keep us fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liability, claims and expenses (including but not limited to legal fees) whatsoever incurred by us in connection with:

4.1.1. Your breach of any relevant Law (including, but not limited to the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000), the General Data Protection Regulation and the common law concerning confidence and privacy; or

4.1.2. Your breach of the Terms.

5. Availability of the Call Recording Service and Content after suspension or termination

5.1. Clause 17.1 of the Main Body Terms does not apply to the Call Recording Service or this Annex. We do not provide a back-up of your Data or Content or guarantee the integrity of your Data or Content. If you wish to keep any back-up of Content, you should ensure it is done so in accordance with all relevant Law.

5.2. You will be unable to access the Call Recording Service if:

5.2.1. in accordance with the Terms, we suspend your VoIP Service or the Call Recording Service or terminate the Contract for either; or

5.2.2. Amazon suspends your AWS service in accordance with the AWS Customer Agreement or Amazon terminates the AWS Customer Agreement.

5.3. If any of the situations in clauses 5.2.1 or 5.2.2 occur, you may still be able to access your existing call recordings stored on your AWS account, but this will be dependent on, and controlled by Amazon, and we will have no responsibility or liability to you in this regard. Where your AWS account is suspended by Amazon which is then reinstated at your request by Amazon, we reserve the right to charge you an additional fee and/or commence a new Minimum Contract Period for the Call Recording Service.

5.4. If you revoke our access to your AWS account, we will have no liability to you and you will be unable to use the Call Recording Service until our access is restored.

5.5. If you choose to terminate the Contract for your relevant VoIP Service, or the Call Recording Service in accordance with the Terms, or you terminate the AWS Customer Agreement, you will be unable to use the Call Recording Service after the relevant notice period expires. You may still be able to access your existing call recordings stored on your AWS account, but this will be dependent on, and controlled by Amazon, and we will have no responsibility or liability to you in this regard.

5.6. If you or Amazon terminate the AWS Customer Agreement in accordance with paragraph 5.2.2 or 5.5, the Contract for the Call Recording Service will also be terminated and you will be liable for all and any outstanding Charges associated with the relevant Service(s) in accordance with clause 15.6.

5.7. Where any of the suspension, termination or access-revocation events set out in paragraphs 5.2 to 5.6 occur, we will have no liability to you provided we act in accordance with the Terms.

----- Section Two – Price Lists -----

6. General

6.1. Details of all prices in this Annex are exclusive of VAT.

6.2. The prices for our Goods and Services will be those which are set out on the Website at the date on which the Contract is formed (as described in clause 4.3), and will be confirmed on the Order Confirmation.

7. Price List – Services

7.1. The price for the Call Recording Service is set out at the following URL
<https://www.gradwell.com/calls/voip-add-ons/call-recording/>.